

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

| | | |
|--|---|-------------------------|
| Keith Petrosemolo, | : | |
| | : | |
| Plaintiff, | : | Civil Action No.: _____ |
| v. | : | |
| Wells Fargo Bank, N.A.; and DOES 1-10, inclusive, | : | |
| | : | |
| Defendants. | : | |
| | : | |
| | : | |

COMPLAINT

Plaintiff, Keith Petrosemolo, says by way of Complaint against Defendant, Wells Fargo Bank, N.A., as follows:

JURISDICTION

1. This action arises out of Defendant's repeated violations of the Telephone Consumer Protection Act, 47 U.S.C. § 227, et seq. ("TCPA"), and the invasions of Plaintiff's personal privacy by Defendant and its agents in their illegal efforts to collect a consumer debt.
2. This Court has supplemental jurisdiction over all other claims in this action, as all such claims arise out of the same case or controversy as Defendant's violations of the TCPA pursuant to 28 U.S.C. § 1367.
3. Venue is proper in the U.S. District Court for the District of New Jersey pursuant to 28 U.S.C. § 1331, as Defendant transacts business in the State of New Jersey.

PARTIES

4. The Plaintiff, Keith Petrosemolo ("Plaintiff"), is an adult individual residing in Shrewsbury, New Jersey, and is a "person" as the term is defined by 47 U.S.C. § 153(39).

5. Defendant Wells Fargo Bank, N.A. (“Wells”), is a South Dakota business entity with an address of 101 North Phillips Avenue, Sioux Falls, South Dakota 57104, and is a “person” as the term is defined by 47 U.S.C. § 153(39).

6. Does 1-10 (the “Agents”) are individual agents employed by Wells and whose identities are currently unknown to the Plaintiff. One or more of the Agents may be joined as parties once their identities are disclosed through discovery.

7. Wells at all times acted by and through one or more of the Agents.

FACTS

8. Within the last four years, Wells called Plaintiff’s cellular telephone, number 732-XXX-6415 in an attempt to collect a financial obligation (the “Debt”) allegedly owed by Plaintiff.

9. At all times mentioned herein, Wells called Plaintiff’s cellular telephone by using an automatic telephone dialing system (“ATDS” or “predictive dialer”) and/or by using an artificial prerecorded voice.

10. Upon answering the calls from Wells, Plaintiff was met with a prerecorded voice.

11. Plaintiff did not provide his cellular telephone number to Wells nor did he provide his prior express consent for the calls. He only provided a landline upon opening the account and did not update Wells with his cell phone number.

12. Despite the foregoing, Wells placed numerous prerecorded calls to Plaintiff’s number, at least 100 calls were made despite never having obtained consent.

COUNT I

VIOLATIONS OF THE TELEPHONE CONSUMER PROTECTION ACT – **47 U.S.C. § 227, et seq.**

13. Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

14. Without prior consent the Defendants made telephone calls to the Plaintiff's residential telephone line using an artificial or prerecorded voice to deliver a message without the prior express consent of the Plaintiff in violation of 47 U.S.C. § 227(b)(1)(B).

15. The calls from Defendants to Plaintiff were not placed for "emergency purposes" as defined by 47 U.S.C. § 227(b)(1)(A)(i).

16. As a result of each call made in negligent violation of the TCPA, Plaintiff is entitled to an award of \$500.00 in statutory damages for each call in violation of the TCPA pursuant to 47 U.S.C. § 227(b)(3)(B).

17. As a result of each call made in knowing and/or willful violation of the TCPA, Plaintiff is entitled to an award of treble damages in an amount up to \$1,500.00 pursuant to 47 U.S.C. § 227(b)(3)(B) and 47 U.S.C. § 227(b)(3)(C).

PRAYER FOR RELIEF

WHEREFORE, the Plaintiff prays that judgment be entered against the Defendants:

1. Statutory damages of \$500.00 for each violation determined to be negligent pursuant to 47 U.S.C. § 227(b)(3)(B);
2. Treble damages for each violation determined to be willful and/or knowing pursuant to 47 U.S.C. § 227(b)(3)(C); and
3. Such other and further relief that the Court may deem just and proper.

TRIAL BY JURY DEMANDED ON ALL COUNTS

Dated: January 25, 2017

Respectfully submitted,

By: /s/ Sofia Balile

Sofia Balile, Esq.
Lemberg Law, LLC
43 Danbury Road
Wilton, CT 06897
Phone: (917) 981-0849
Fax: (888) 953-6237